

SECTION 2 [Sections 2 through 8 must be completed for each redevelopment project area listed in Section 1.]

FY 2023

Name of Redevelopment Project Area:

McDermott/St. Charles Road

Primary Use of Redevelopment Project Area*: Commercial	
<small>*Types include: Central Business District, Retail, Other Commercial, Industrial, Residential, and Combination/Mixed.</small>	
If "Combination/Mixed" List Component Types:	
Under which section of the Illinois Municipal Code was the Redevelopment Project Area designated? (check one):	
Tax Increment Allocation Redevelopment Act	<input checked="" type="checkbox"/>
Industrial Jobs Recovery Law	<input type="checkbox"/>

Please utilize the information below to properly label the Attachments.

	No	Yes
For redevelopment projects beginning prior to FY 2022, were there any amendments, to the redevelopment plan, the redevelopment project area, or the State Sales Tax Boundary? [65 ILCS 5/11-74.4-5 (d) (1) and 5/11-74.6-22 (d) (1)] If yes, please enclose the amendment (labeled Attachment A). For redevelopment projects beginning in or after FY 2022, were there any amendments, enactments or extensions to the redevelopment plan, the redevelopment project area, or the State Sales Tax Boundary? [65 ILCS 5/11-74.4-5 (d) (1) and 5/11-74.6-22 (d) (1)] If yes, please enclose the amendment, enactment or extension, and a copy of the redevelopment plan (labeled Attachment A).	X	
Certification of the Chief Executive Officer of the municipality that the municipality has complied with all of the requirements of the Act during the preceding fiscal year. [65 ILCS 5/11-74.4-5 (d) (3) and 5/11-74.6-22 (d) (3)] Please enclose the CEO Certification (labeled Attachment B).		X
Opinion of legal counsel that municipality is in compliance with the Act. [65 ILCS 5/11-74.4-5 (d) (4) and 5/11-74.6-22 (d) (4)] Please enclose the Legal Counsel Opinion (labeled Attachment C).		X
Statement setting forth all activities undertaken in furtherance of the objectives of the redevelopment plan, including any project implemented and a description of the redevelopment activities. [65 ILCS 5/11-74.4-5 (d) (7) (A and B) and 5/11-74.6-22 (d) (7) (A and B)] If yes, please enclose the Activities Statement (labeled Attachment D).	X	
Were any agreements entered into by the municipality with regard to the disposition or redevelopment of any property within the redevelopment project area or the area within the State Sales Tax Boundary? [65 ILCS 5/11-74.4-5 (d) (7) (C) and 5/11-74.6-22 (d) (7) (C)] If yes, please enclose the Agreement(s) (labeled Attachment E).		X
Is there additional information on the use of all funds received under this Division and steps taken by the municipality to achieve the objectives of the redevelopment plan? [65 ILCS 5/11-74.4-5 (d) (7) (D) and 5/11-74.6-22 (d) (7) (D)] If yes, please enclose the Additional Information (labeled Attachment F).	X	
Did the municipality's TIF advisors or consultants enter into contracts with entities or persons that have received or are receiving payments financed by tax increment revenues produced by the same TIF? [65 ILCS 5/11-74.4-5 (d) (7) (E) and 5/11-74.6-22 (d) (7) (E)] If yes, please enclose the contract(s) or description of the contract(s) (labeled Attachment G).	X	
Were there any reports <u>submitted to</u> the municipality <u>by</u> the joint review board? [65 ILCS 5/11-74.4-5 (d) (7) (F) and 5/11-74.6-22 (d) (7) (F)] If yes, please enclose the Joint Review Board Report (labeled Attachment H).		X
Were any obligations issued by the municipality? [65 ILCS 5/11-74.4-5 (d) (8) (A) and 5/11-74.6-22 (d) (8) (A)] If yes, please enclose any Official Statement (labeled Attachment I). If Attachment I is answered yes, then the Analysis must be attached (labeled Attachment J).	X	
An analysis prepared by a financial advisor or underwriter, chosen by the municipality , setting forth the nature and term of obligation; projected debt service including required reserves and debt coverage; and actual debt service. [65 ILCS 5/11-74.4-5 (d) (8) (B) and 5/11-74.6-22 (d) (8) (B)] If attachment I is yes, the Analysis and an accompanying letter from the municipality outlining the contractual relationship between the municipality and the financial advisor/underwriter MUST be attached (labeled Attachment J).	X	
Has a cumulative of \$100,000 of TIF revenue been deposited into the special tax allocation fund? 65 ILCS 5/11-74.4-5 (d) (2) and 5/11-74.6-22 (d) (2) If yes, please enclose audited financial statements of the special tax allocation fund (labeled Attachment K).		X
Cumulatively, have deposits of incremental taxes revenue equal to or greater than \$100,000 been made into the special tax allocation fund? [65 ILCS 5/11-74.4-5 (d) (9) and 5/11-74.6-22 (d) (9)] If yes, the audit report shall contain a letter from the independent certified public accountant indicating compliance or noncompliance with the requirements of subsection (q) of Section 11-74.4-3 (labeled Attachment L).		X
A list of all intergovernmental agreements in effect to which the municipality is a part, and an accounting of any money transferred or received by the municipality during that fiscal year pursuant to those intergovernmental agreements. [65 ILCS 5/11-74.4-5 (d) (10)] If yes, please enclose the list only, not actual agreements (labeled Attachment M).	X	
For redevelopment projects beginning in or after FY 2022, did the developer identify to the municipality a stated rate of return for each redevelopment project area? Stated rates of return required to be reported shall be independently verified by a third party chosen by the municipality. If yes, please enclose evidence of third party verification, may be in the form of a letter from the third party (labeled Attachment N).	X	

SECTION 3.1 [65 ILCS 5/11-74.4-5 (d)(5)(a)(b)(d)] and (65 ILCS 5/11-74.6-22 (d) (5)(a)(b)(d)]

FY 2023

Name of Redevelopment Project Area:

McDermott/St. Charles Road

Provide an analysis of the special tax allocation fund.

Special Tax Allocation Fund Balance at Beginning of Reporting Period \$ 1,845,499

SOURCE of Revenue/Cash Receipts:	Revenue/Cash Receipts for Current Reporting Year	Cumulative Totals of Revenue/Cash Receipts for life of TIF	% of Total
Property Tax Increment	\$ 643,566	\$ 3,084,894	100%
State Sales Tax Increment			0%
Local Sales Tax Increment			0%
State Utility Tax Increment			0%
Local Utility Tax Increment			0%
Interest	\$ 4,200	\$ 2,967	0%
Land/Building Sale Proceeds			0%
Bond Proceeds			0%
Transfers from Municipal Sources			0%
Private Sources			0%
Other (identify source _____; if multiple other sources, attach schedule)			0%

All Amount Deposited in Special Tax Allocation Fund \$ 647,766

Cumulative Total Revenues/Cash Receipts \$ 3,087,861 100%

Total Expenditures/Cash Disbursements (Carried forward from Section 3.2) \$ 614,685

Transfers to Municipal Sources

Distribution of Surplus

Total Expenditures/Disbursements \$ 614,685

Net/Income/Cash Receipts Over/(Under) Cash Disbursements \$ 33,081

Previous Year Adjustment (Explain Below)

FUND BALANCE, END OF REPORTING PERIOD* \$ 1,878,580

* If there is a positive fund balance at the end of the reporting period, you must complete Section 3.3

Previous Year Explanation:

SECTION 3.2 A [65 ILCS 5/11-74.4-5 (d) (5) (c) and 65 ILCS 5/11-74.6-22 (d) (5)(c)]

FY 2023

Name of Redevelopment Project Area:

McDermott/St. Charles Road

ITEMIZED LIST OF ALL EXPENDITURES FROM THE SPECIAL TAX ALLOCATION FUND

PAGE 1

Category of Permissible Redevelopment Cost [65 ILCS 5/11-74.4-3 (q) and 65 ILCS 5/11-74.6-10 (o)]	Amounts	Reporting Fiscal Year
1. Cost of studies, surveys, development of plans, and specifications. Implementation and administration of the redevelopment plan, staff and professional service cost.		
St Charles Road Corridor Plan Update	27,484	
		\$ 27,484
2. Annual administrative cost.		
		\$ -
3. Cost of marketing sites.		
Next Site LLC	4,000	
		\$ 4,000
4. Property assembly cost and site preparation costs.		
		\$ -
5. Costs of renovation, rehabilitation, reconstruction, relocation, repair or remodeling of existing public or private building, leasehold improvements, and fixtures within a redevelopment project area.		
5440 St. Charles Road Demolition	59,444	
		\$ 59,444
6. Costs of the construction of public works or improvements.		
McDermott Drive Construction Closeout	291,945	
		\$ 291,945

SECTION 3.2 A
PAGE 3

13. Relocation costs.		
Mittera, 5656 McDermott Drive	204,137	
		\$ 204,137
14. Payments in lieu of taxes.		
		\$ -
15. Costs of job training, retraining, advanced vocational or career education.		
		\$ -
16. Interest cost incurred by redeveloper or other nongovernmental persons in connection with a redevelopment project.		
		\$ -
17. Cost of day care services.		
		\$ -
18. Other.		
		\$ -
TOTAL ITEMIZED EXPENDITURES		\$ 614,685

SECTION 3.3 [65 ILCS 5/11-74.4-5 (d) (5d) 65 ILCS 5/11-74.6-22 (d) (5d)]

FY 2023

Name of Redevelopment Project Area:

McDermott/St. Charles Road

Breakdown of the Balance in the Special Tax Allocation Fund At the End of the Reporting Period by source

FUND BALANCE BY SOURCE

\$ 1,878,580

1. Description of Debt Obligations	Amount of Original Issuance	Amount Designated
Total Amount Designated for Obligations	\$ -	\$ -

2. Description of Project Costs to be Paid	Amount of Original Issuance	Amount Designated
Total Amount Designated for Project Costs		\$ -

TOTAL AMOUNT DESIGNATED \$ -

SURPLUS/(DEFICIT) \$ 1,878,580

SECTION 4 [65 ILCS 5/11-74.4-5 (d) (6) and 65 ILCS 5/11-74.6-22 (d) (6)]

FY 2023

Name of Redevelopment Project Area:

McDermott/St. Charles Road

Provide a description of all property purchased by the municipality during the reporting fiscal year within the redevelopment project area.

X

Indicate an 'X' if no property was acquired by the municipality within the redevelopment project area.

Property (1):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (2):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (3):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (4):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (5):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (6):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

Property (7):	
Street address:	
Approximate size or description of property:	
Purchase price:	
Seller of property:	

SECTION 5 [20 ILCS 620/4.7 (7)(F)]

FY 2023

Name of Redevelopment Project Area:

McDermott/St. Charles Road

PAGE 1

Page 1 MUST be included with TIF report. Pages 2 and 3 are to be included ONLY if projects are listed.

Select ONE of the following by indicating an 'X':

1. NO projects were undertaken by the Municipality Within the Redevelopment Project Area.	
2. The municipality DID undertake projects within the Redevelopment Project Area. (If selecting this option, complete 2a and 2b.)	X
2a. The total number of ALL activities undertaken in furtherance of the objectives of the redevelopment plan:	6
2b. The total number of NEW projects undertaken by the municipality in fiscal year 2022 and any fiscal year thereafter, within the Redevelopment Project area, if any.	1

LIST ALL projects undertaken by the Municipality Within the Redevelopment Project Area:

TOTAL:	11/1/99 to Date	Estimated Investment for Subsequent Fiscal Year	Total Estimated to Complete Project
Private Investment Undertaken (See Instructions)	\$ 10,010,000	\$ -	\$ 10,010,000
Public Investment Undertaken	\$ 371,176	\$ 291,256	\$ 567,313
Ratio of Private/Public Investment	26 61/63		17 29/45

Project 1*: Retail Coach Property Marketing

Private Investment Undertaken (See Instructions)			
Public Investment Undertaken	\$ 7,500		\$ 7,500
Ratio of Private/Public Investment	0		0

Project 2*: J-K's Restaurant TIF Façade Program

Private Investment Undertaken (See Instructions)	\$ 10,000		\$ 10,000
Public Investment Undertaken	\$ 16,500		\$ 16,500
Ratio of Private/Public Investment	20/33		20/33

Project 3 Name: St. Charles Road Corridor Plan Update

Private Investment Undertaken (See Instructions)			
Public Investment Undertaken	\$ 29,160		\$ 29,160
Ratio of Private/Public Investment	0		0

Project 4 Name: Next Site LLC Property Marketing

Private Investment Undertaken (See Instructions)			
Public Investment Undertaken	\$ 8,000		
Ratio of Private/Public Investment	0		0

Project 5 Name: Mittera Redevelopment Agreement

Private Investment Undertaken (See Instructions)	\$ 10,000,000		\$ 10,000,000
Public Investment Undertaken	\$ 222,897	\$ 204,137	\$ 427,034
Ratio of Private/Public Investment	44 19/22		23 5/12

Project 6 Name: 5440 St. Charles Road Demolition

Private Investment Undertaken (See Instructions)			
Public Investment Undertaken	\$ 87,119	\$ 87,119	\$ 87,119
Ratio of Private/Public Investment	0		0

SECTION 6 [Information requested in SECTION 6.1 is not required by law, but may be helpful in evaluating the performance of TIF in Illinois.

SECTIONS 6.2, 6.3, and 6.4 are required by law, if applicable. (65 ILCS 5/11-74.4-5(d))

FY 2023

Name of Redevelopment Project Area:

McDermott/St. Charles Road

SECTION 6.1-For redevelopment projects beginning before FY 2022, complete the following information about job creation and retention.

Number of Jobs Retained	Number of Jobs Created	Job Description and Type (Temporary or Permanent)	Total Salaries Paid
			\$ -

SECTION 6.2-For redevelopment projects beginning in or after FY 2022, complete the following information about projected job creation and actual job creation.

Project Name	The number of jobs, if any, projected to be created at the time of approval of the redevelopment agreement.		The number of jobs, if any, created as a result of the development to date, for the reporting period, under the same guidelines and assumptions as was used for the projections used at the time of approval of the redevelopment agreement.	
	Temporary	Permanent	Temporary	Permanent

SECTION 6.3-For redevelopment projects beginning in or after FY 2022, complete the following information about increment projected to be created and actual increment created.

Project Name	The amount of increment projected to be created at the time of approval of the redevelopment agreement.	The amount of increment created as a result of the development to date, for the reporting period, using the same assumptions as was used for the projections used at the time of the approval of the redevelopment agreement.

SECTION 6.4-For redevelopment projects beginning in or after FY 2022, provide the stated rate of return identified by the developer to the municipality and verified by an independent third party, IF ANY:

Project Name	Stated Rate of Return

SECTION 7 [Information in the following section is not required by law, but may be helpful in evaluating the performance of TIF in Illinois.]

FY 2023

Name of Redevelopment Project Area:

McDermott/St. Charles Road

Provide a general description of the redevelopment project area using only major boundaries.

Optional Documents	Enclosed
Legal description of redevelopment project area	
Map of District	

President

Robert E. Lee, Jr.

Village Clerk

Belia Nowak



Board of Trustees

Sherry Graf-Stone

Jason Mathews

L.W. Hammar

Jerry Perez

Diane Salemi

Shafi Mohammed

December 15, 2023

ATTACHMENT B

Susana A. Mendoza, Comptroller
Office of the Comptroller
James R. Thompson Center
Local Government Division
100 W. Randolph Street, Suite 15-500
Chicago, IL 60601

Dear Comptroller Mendoza,

Based upon the Village of Berkeley's understanding of the requirements of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-5 (d) (3) and 5/11-74.6-22 (d) (3), the Village believes it has complied with all of the requirements of the Act during the preceding Fiscal Year.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert E. Lee, Jr.", is written over a light gray background.

Robert E. Lee, Jr.
Village President

Village of Berkeley

5819 Electric Avenue • Berkeley, Illinois • 60163

Website: www.berkeley.il.us • Phone: 708-449-8840 • Fax: 708-449-6189

Attachment C

December 5, 2023

Opinion of the Legal Counsel for the
Village of Berkeley Regarding the
McDermott St. / St. Charles Road Tax Increment Financing District No. 2
Annual Report for Fiscal Year Ending April 30, 2023

This will confirm that, as legal counsel for the Village of Berkeley, Cook County, Illinois, I have reviewed the information provided to me by the Village regarding the Village's Annual Tax Increment Finance Report for the McDermott St. / St. Charles Road Tax Increment Financing District No. 2 for the fiscal year ending April 30, 2023. Based on such information, I hereby certify that, to the best of my knowledge and belief, the Village of Berkeley has conformed substantially to all applicable reporting requirements of the Illinois Tax Increment Allocation Redevelopment Act for the fiscal year ending April 30, 2023.

Sincerely,



Gregory T. Smith

Attachment E

LICENSE AND RELEASE, HOLD HARMLESS AND INDEMNIFICATION AGREEMENT FOR NON-EXCLUSIVE, TEMPORARY USE OF VILLAGE OF BERKELEY-OWNED PROPERTY (FOOD TRUCK OPERATOR – [OWNER NAME])

This **LICENSE AND RELEASE, HOLD HARMLESS AND INDEMNIFICATION AGREEMENT** (“**Agreement**”) has been entered into this ___ day of August, 2023, by the Village of Berkeley, an Illinois home rule municipal corporation (“**Village**”) and [Owner Name}, a business owner, doing business as [Food Truck Name], with its principal place of business located at [Address registered with Illinois Department of Revenue] (“**Licensee**”), in regard to the following. The Village and Licensee are at times referred to herein individually as a “Party” and collectively as the “Parties.”

WHEREAS, the Village owns a vacant parcel of real estate located 5544 St. Charles Road, Berkeley, Illinois 60163, as legally described in **Exhibit A** attached hereto and made a part hereof (“**Village Property**”); and

WHEREAS, Licensee desires to use the Village-assigned portion of the Village Property, as depicted in **Exhibit B** attached hereto and made a part hereof, as may be modified by the Village Administrator from time to time, to operate a food truck selling food at retail to the public (“**Activity**”) on the dates and times (collectively, the “**Activity Dates and Times**”), approved, and as may be modified, by the Village Administrator from time to time; and

WHEREAS, the use of the Village Property by Licensee will be non-exclusive in that the Village may allow other food trucks, or other users and / or uses, to also use the Village Property on the same dates and at the same times as Licensee’s use of the Village Property; and

WHEREAS, it is a violation of this Agreement and unlawful for Licensee, or any of its owners, employees or contractors, to operate any food truck under this Agreement, unless Licensee has:

- A. Applied for, obtained and maintains a current County Health Department permit relative to the preparation and service of food from the food truck; and
- B. Applied for, obtained and maintains a current business license from the Village and food truck permit from the Village;

NOW, THEREFORE, in consideration of the foregoing, and for the mutual promises hereinafter set forth, and for other good and valuable consideration, the sufficiency of which is acknowledged, the Village grants Licensee a permit for the non-exclusive, temporary use of the Village Property for the Activity on the Activity Dates and Times, subject to the following terms and conditions:

1. **Original Agreement.** The above Whereas clauses are incorporated into this Section 1 by reference. The Original Agreement is terminated, except for its provisions which expressly survive termination.

2. **License Fee and Term; Suspension; Termination.** In consideration of the payment of Five Hundred and No/100 Dollars (\$500.00) per month this Agreement is in effect (“**Temporary Use Fee**”) by Licensee to the Village, with payment due in advance of each month this Agreement is in effect, the Village authorizes the temporary, non-exclusive use of the Village Property by Licensee only for the uses described above as the Activity and only on the Activity

Dates and Times described above as the Activity Dates and Times. The Temporary Use Fee will be earned by the Village when received and is refundable. This Agreement will be in effect for four (4) months from the Effective Date (as defined in Section 22) and will renew for additional four (4) month periods until terminated. This Agreement is subject to the following termination and suspension provisions:

- A. Upon verbal or written notice to Licensee, the Village Administrator at any time may relocate or suspend Licensee's right to use the Village Property for one or more days for any public health and safety purpose or municipal purpose. Any public health and safety purpose, municipal use or other usage of the Village Property by the Village takes priority over Licensee's use of the Village Property under this Agreement.
- B. Upon one (1) day prior written notice to Licensee, the Village Administrator may permanently modify Licensee's right to use the Village Property by changing the location of the Activity or the Activity Dates and Times to accommodate any other public health and safety purpose, municipal purpose or use. In such case, the Village Administrator will provide Licensee with a letter that modifies this Agreement that states the new Activity Dates and Times.
- C. The Village may terminate this Agreement for any reason at any time during the term of this Agreement upon delivery of written notice to Licensee, with or without cause. Licensee may terminate this Agreement upon delivery of written notice to the Village no less than thirty (30) days before the end of a four (4) month term of this Agreement, without or without cause. The termination shall be effective on the termination date set forth in the written notice.

In addition, the obligations of Licensee set forth in Section 4 below shall survive the termination of this Agreement until those obligations are fully satisfied by Licensee.

3. Use and Condition; Payment of Taxes; Electricity; Special Events.

- A. **Use and Condition.** Licensee accepts the Village Property in "AS-IS, WHERE-IS" condition as existing on the date of the execution of this Agreement. Licensee acknowledges that it has inspected the Village Property and acknowledges that it is in good condition. THE VILLAGE MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WITH RESPECT TO THE CONDITION OF THE VILLAGE PROPERTY. Licensee acknowledges that the Village has made no representations or promises to Licensee to alter or otherwise improve the condition of the Village Property.
- B. **Real Estate Taxes.** Licensee must pay real estate taxes on the Village Property that are attributable to this Agreement, as determined by the Village.
- C. **Sales Taxes.** All sales occurring as part of the Activity must (i) be attributed to the Village Property and (ii) collect and remit sales taxes. Licensee shall provide the Village with written proof, when requested by the Village, that Licensee properly filed sales tax forms with the State of Illinois, such as Illinois Department of Revenue Forms ST-1 and / or ST-2, and with other governmental jurisdictions.

- D. **Electricity.** Licensee may use one (1) electric outlet on the Village Property as designated by the Village.
- E. **Special Events.** Licensee will use its best efforts to operate its food truck at Village special events when requested by the Village, such as, without limitation, Electric Nights: Music in the Park, Fun Fest, and Autumn Fest.

4. **Care, Maintenance and Restoration.** Licensee shall, at its own expense and at all times, be responsible for maintaining the Village Property, as well as the areas used for activities associated with the Activity, in good condition and free from litter and other debris generated by the Activity. Licensee shall, at its own expense, hire personnel to clean-up all litter and debris from participants, patrons and attendees of the Activity, to wash the Village Property in order to remove any food, drink or paint residue (if necessary), and to repair or replace any damage to the Village's personal property and the Village Property caused during the Activity. Licensee shall be responsible for garbage collection and removal. Upon termination of this Agreement, by lapse of time or otherwise, Licensee, at its own expense, shall return and restore the Village Property to as good condition as immediately prior to the execution of this Agreement, ordinary wear and tear excepted. The Village Administrator shall direct Licensee to make such repairs and restorations as the Village deems necessary in order to restore the Village Property to its previous condition. All Licensee's obligations in this Section 4 shall be at Licensee's sole cost and expense.

5. **Interference With Access.** Licensee represents and warrants that its use of the Village Property shall not interfere in any way with the use of the public rights-of-way or property owned by the Village, the State or the County.

6. **Assignment and Subletting.** This Agreement may not be assigned, sublicensed or subletted by Licensee without the prior written consent of the Village, which may be withheld in the Village's absolute discretion. In the event of Licensee's unauthorized assignment or subletting, this Agreement shall immediately terminate.

7. **Village Entry and Inspection.** The Village, and the Village's employees, agents, representatives, contractors, subcontractors and volunteers, are authorized to enter upon the Village Property, as well as the areas used for activities associated with the Activity, at any time and with or without prior notice, for all lawful purposes.

8. **Release, Waiver, Assumption of Risk, Hold Harmless and Indemnification.** Licensee covenants and agrees as follows:

- A. **Hold Harmless and Indemnification.** Licensee agrees to protect, indemnify, save and hold forever harmless the Village of Berkeley and its officers, current / past / future appointed and elected officials, President and Board of Trustees, employees, volunteers, attorneys, engineers and agents (collectively the "**Village Affiliates**") from and against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses brought by any person, including Licensee, and their officers, officials, employees, contractors, subcontractors, volunteers, agents and invitees arising out of or relating to the Activity, Licensee's use, the Activity attendees' use or the public's use of the Village Property or the areas used for activities associated with the Activity, any other public rights-of-way in the Village, or any matters arising out of or relating to matters covered under this Agreement.

- B. **Risk Of Injury.** Licensee assumes the full risk of death, illness and personal injuries of any kind and all damages or losses of any kind which it or its officers, officials, employees, contractors, subcontractors, volunteers, agents and invitees or members of the public who attend the Activity may sustain arising out of or relating to the Activity, Licensee's use, Activity attendees' use or the public's use of the Village Property or the areas used for activities associated with the Activity, any other public rights-of-way in the Village, or any matters arising out of or relating to matters covered under this Agreement.
- C. **Waiver Of Claims.** Licensee agrees to waive and relinquish any and all claims or causes of action of any kind that it or its officers, officials, employees, contractors, subcontractors, volunteers, agents and invitees may have against the Village and the Village Affiliates arising out of or relating to the Activity, Licensee's use, the Activity attendees' use or the public's use of the Village Property or the areas used for activities associated with the Activity, or any matters arising out of or relating to matters covered under this Agreement.
- D. **Release From Liability.** Licensee fully releases and discharges the Village and the Village Affiliates from any and all claims or causes of action of any kind, including but not limited to illness, injury, death, damages or losses which Licensee or its officers, officials, employees, contractors, subcontractors, volunteers, agents and invitees or members of the public may have or which arise out of or relate to the Activity, Licensee's use, the Activity attendees' use or the public's use of the Village Property or the areas used for activities associated with the Activity, any other public rights-of-way in the Village, or any matters arising out of or relating to matters covered under this Agreement.

9. **Insurance.** During the term of this Agreement, Licensee agrees to have the Village and the Village Affiliates expressly named as additional insureds on its insurance policies, in its endorsements and on its certificates related to the operation of the Activity for the purposes stated herein. Licensee shall provide the following types of insurance, written on the comprehensive form and as an "occurrence" policy, in not less than the following amounts:

- A. **Comprehensive General Liability** – \$1,000,000 per occurrence and \$2,000,000 in the aggregate
- B. **Umbrella Coverage** – \$1,000,000
- C. **Property Damage** – \$500,000 per occurrence
- D. **Workers' Compensation** – Statutory

Licensee shall furnish certificates of insurance, with premiums paid in full, prior to the Effective Date, copies of which are incorporated herein and attached hereto as **Exhibit C** and made a part hereof. Licensee shall provide the Village with satisfactory proof of the above insurance requirements in the form of a certificate executed by an insurer with no less than an A rating by the most recent "AM Best Insurance Rating Guide." The Village shall have the right to approve the coverage and the carrier, which approval shall not be unreasonably withheld. Licensee shall also carry, during the life of this Agreement, a Worker's Compensation Insurance

Policy with coverage in the statutory amount conforming to the current laws of the State of Illinois and shall furnish to the Village a Certificate of Insurance evidencing such coverage.

Licensee's policy or policies of insurance shall specifically recognize and cover Licensee's indemnification obligations under this Agreement and shall contain cross-liability endorsements. Said insurance shall provide that the insurance provided by Licensee shall be primary and that any provision of any contract of insurance or other risk protection benefit or self-insurance policy purchased or in effect or enacted by the Village and any other insurance or benefit of the Village shall be in excess of Licensee's insurance, and said insurance shall provide the Village with the ability to select its own counsel and direct its own defense.

All certificates of Insurance shall contain the following endorsement: "Should any of the above-described policies be canceled before the expiration date thereof, the issuing company shall serve thirty (30) calendar days prior written notice to the Village."

In the event of the cancellation of any insurance policy required herein, or upon Licensee's failure to procure said insurance, the Village shall have the right to immediately terminate this Agreement. The insurance coverage of Licensee shall be primary and non-contributory to the Village's own insurance.

10. **Alterations.** Licensee shall not, without first obtaining the written consent of the Village, make any alterations, additions or improvements to the Village Property, which consent may be withheld in the discretion of the Village. It is expressly understood by Licensee and its agents that if Licensee performs any alterations to the Village Property, Licensee agrees to indemnify, hold harmless, release, waive, assume the risk and defend the Village and the Village Affiliates from any and all liabilities, costs, expenses, damages, claims or causes of action of any kind, including but not limited to death, illness, injuries, damages and losses which any person, including Licensee or its officers, employees, volunteers, agents, contractors, subcontractors, the Activity attendees or members of the public, may have or which arise out of, are connected with or are in any way associated with the construction or performance of the alterations of the Village's Village Property to the full extent possible under the provisions of Section 8 of this Agreement.

11. **Default.** Each of the following acts or omissions of Licensee or occurrences shall constitute an "**Event of Default**:"

- A. Failure or refusal by Licensee to comply with any of the obligations of Licensee set forth in this Agreement; and
- B. Failure or refusal by Licensee to hold the Activity or use the Village Property.

12. **Village's Remedies on Default.** In addition to the termination and suspension provisions in Section 2, if Licensee defaults in the performing of any of the other covenants or obligations hereof, or in the occurrence of any Event of Default, the Village shall give Licensee written or verbal notice of such default; and if Licensee does not immediately cure any such default or take immediate actions to cure such default, then the Village may terminate this Agreement. Upon termination of this Agreement, Licensee shall promptly remove its personal property, equipment and materials from the Village Property and shall not conduct activities associated with the Activity.

13. **Non-Waiver.** Failure by Licensee or the Village to insist on strict performance of any of the conditions, covenants, terms or provisions of this Agreement or to exercise any of its

rights hereunder shall not waive such rights, but Licensee and the Village shall have the right to enforce the terms and conditions of this Agreement at any time and take such action as might be lawful or authorized hereunder, either in law or equity.

14. **Attorneys' Fees.** In case suit should be brought by the Village for recovery of the Village Property, or because of any act, which may arise out of the use or possession of the Village Property or to enforce the terms of this Agreement, the Village shall be entitled to all costs incurred in connection with such action, including reasonable attorneys' fees and litigation fees and expenses.

15. **Notices.** Any notice which either Party may or is required to give shall be given by mailing the same, by personal delivery or United States registered or certified mail, postage prepaid, to Licensee at its current business address listed above on page 1, or to the Village at 5819 Electric Avenue, Berkeley, Illinois 60163, or to such other places as may be designated by the Parties from time to time.

16. **Severability.** Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law; but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

17. **Right to Terminate.** In addition to the termination rights set forth above in Section 2 above, the Village may suspend or terminate the operation of the Activity or terminate this Agreement at any time and for any reason relating to the exercise of any Village governmental purposes or the Village's decision to sell, lease, license or otherwise permit another person or public entity to occupy the Village Property or to ensure the public safety or for a violation of applicable federal, state, county or Village laws or this Agreement, upon written notice or verbal notice to Licensee. In the event the Village exercises its right to terminate this Agreement, Licensee shall not be entitled to a return of the Temporary Use Fee and agrees to restore the Village Property to its condition, as required above by Section 4 above. If this Agreement is terminated by the Village, the temporary, non-exclusive license to use the Village Property shall terminate at the same time. Otherwise, this Agreement shall terminate as provided in Section 2 above, except that the release, hold harmless and indemnification provisions of Section 8 of this Agreement shall remain in full force and effect through the expiration of any applicable statute of limitation period that applies to all claims and causes of actions of any kind that could be or are brought against the Village or the Village's Affiliates that arise out of or relate to any matters covered by this Agreement, including the approval of this Agreement by the Village. In addition, the obligations of Licensee set forth above in Section 4 shall survive the termination of this Agreement until those obligations are fully satisfied by Licensee.

18. **Compliance With Laws.** The Parties to this Agreement shall comply with all applicable federal, State and local laws, rules and regulations in carrying out the terms and conditions of this Agreement, including the following:

- A. **Certification.** Each Party and its officers, corporate authorities, employees and agents certify that they are not barred from entering into this Agreement as a result of a violation of either 720 ILCS 5/33E-3 or 5/33E-4 (bid rigging or bid rotating) or 5/33E-6 (interference with contract submission and award by public official) or as a result of a violation of 820 ILCS 130/1 *et seq.* (Illinois Prevailing Wage Act) or as a result of: (1) a delinquency in the payment of any tax administered by the

Illinois Department of Revenue or any fee required by any unit of local government or the State, unless the Party is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax or the fee, as set forth in Section 11-42.1-1 *et seq.* of the Illinois Municipal Code, 65 ILCS 5/11-42.1-1 *et seq.* Each Party and its officers, corporate authorities, employees and agents further certify by signing this Agreement that the Party and its officers, corporate authorities, employees and agents have not been convicted of or are not barred for attempting to rig bids, price-fixing or attempting to fix prices as defined in the Sherman Anti-Trust Act and Clayton Act. 15 U.S.C. § 1 *et seq.*; and has not been convicted of or barred for bribery or attempting to bribe an officer or employee of a unit of state or local government or school district in the State of Illinois in that officer's or employee's official capacity. Nor has any of the Parties and their officers, corporate authorities, employees and agents made admission of guilt of such conduct which is a matter of record, nor has any official, officer, agent or employee of the Parties been so convicted nor made such an admission.

- B. **Non-Discrimination.** Each Party and its officers, corporate authorities, employees and agents agree not to commit unlawful discrimination and agree to comply with all applicable provisions of the Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the Age Discrimination in Employment Act, Section 504 of the Federal Rehabilitation Act, and all applicable rules and regulations. Each Party maintains a written Sexual Harassment Policy in compliance with Section 2-105 of the Illinois Human Rights Act (775 ILCS 5/2-105(A)(4)). Each Party certifies that it is an "Equal Opportunity Employer" as defined by federal and State laws and regulations, and agrees to comply with the Illinois Department of Human Rights ("**IDHR**") Equal Opportunity Employment clause as required by the IDHR's Regulations (44 Ill. Adm. Code, Part 750, Appendix A). As required by Illinois law and IDHR Regulation, the Equal Opportunity Employment clause is incorporated by reference in its entirety as though fully set forth herein. Each Party certifies that it agrees to comply with the Prohibition of Segregated Facilities clause, which is incorporated by reference in its entirety as though fully set forth herein. See, Illinois Human Rights Act (775 ILCS 5/2-105). See also, Illinois Department of Human Rights Rules and Regulations, Title 44, Part 750. Administrative Code, Title 44: Government Contracts, Procurement and Property Management, Subtitle B: Supplemental Procurement Rules, Chapter X: Department of Human Rights, Part 750: Procedures Applicable to All Agencies, Section 750.160: Segregated Facilities (44 Ill. Adm. Code 750.160).
- C. **Illinois Freedom of Information Act.** The definition of a public record in the Freedom of Information Act (5 ILCS 140/1 *et seq.*) ("**FOIA**") includes a "public record that is not in the possession of a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body and that directly relates to the governmental function and is not otherwise exempt under this Act." (5 ILCS 140/7(2)). Consequently, Licensee must maintain and make available to the Village, upon request, Licensee's records relating to the performance of this Agreement in compliance with the requirements of the Local Records Act (50 ILCS 205/1 *et seq.*) and the FOIA.

19. **Venue.** The Parties agree that, for the purpose of any litigation relative to this Agreement and its enforcement, venue shall be in the Circuit Court of Cook County, Illinois and the Parties consent to the *in personam* jurisdiction of said Court for any such action or proceeding. This Agreement, and all questions of interpretation, construction and enforcement hereof, and all controversies hereunder, shall be governed by the applicable statutory and common law of the State of Illinois.

20. **Complete Defense.** It is expressly understood and agreed by the Parties that this Agreement may be pleaded by the Village as a complete defense to, and in bar of, any and all claims or causes of action of any kind brought, maintained or conducted by Licensee or by a third party in connection with or on account of any of the matters set forth in this Agreement. The Parties agree that this Agreement shall be admissible in evidence in any action in which the terms of this Agreement are sought to be enforced.

21. **Authority to Bind.** The Parties warrant and represent that the execution, delivery of and performance under this Agreement is pursuant to authority, validly and duly conferred upon the Parties and the signatories hereto.

22. **Effective Date.** This Agreement shall become effective upon the date of execution by the last signatory below.

23. **No Third Party Beneficiaries.** The provisions of this Agreement are and will be for the benefit of Licensee and Village only and are not for the benefit of any third party, and, accordingly, no third party will have the right to enforce the provisions of this Agreement. The Village will not be liable to any vendor or other third party for any agreements made by Licensee, purportedly on behalf of the Village, without the knowledge and approval of the Village's corporate authorities.

24. **Counterpart Execution.** This Agreement may be executed in counterparts, each of which is deemed to be an original but all of which will constitute one and the same instrument.

25. **Village Actions, Consents, and Approvals.** Unless otherwise provided in this Agreement, any action, consent, or approval needed to be taken or given under this Agreement by the Village may only be performed by the Village Administrator or their designee, to the extent provided for by law.

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties to this Agreement have executed this Agreement as of the dates listed below.

VILLAGE OF BERKELEY

LICENSEE

[Owner Name], DBA AS [Food Truck Name]

By: _____

By: _____

Name: _____
Village President

Name: [Owner Name]

Title: N/A
Authorized Officer

Date: _____, 2023

Date: _____, 2023

EXHIBIT A

LEGAL DESCRIPTION OF THE VILLAGE PROPERTY

LOTS 13, 14, 15 AND 16 IN BLOCK 10 OF VENDLEY AND COMPANY'S BERKELEY GARDENS, A SUBDIVISION IN THE NORTHEAST 1/4 LYING NORTH OF THE CENTER LINE OF ST. CHARLES ROAD OF SECTION 7, TOWNSHIP 39 NORTH RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N.: 15-07-210-024-0000

Common Address: 5544 St. Charles Road, Berkeley, Illinois 60163

EXHIBIT B

MAP OF THE VILLAGE PROPERTY AND THE ACTIVITY LOCATION



EXHIBIT C

CERTIFICATE OF INSURANCE OBTAINED BY LICENSEE

(attached)



Attachment H

**MINUTES FROM THE ANNUAL JOINT REVIEW BOARD
OF THE VILLAGE OF BERKELEY
FOR THE ST. CHARLES ROAD AND ST. CHARLES/MCDERMOTT ROAD
TAX INCREMENT FINANCING REDEVELOPMENT PROJECTS**

**Tuesday, January 17, 2023
9:30 a.m.**

**Bicentennial Room
Berkeley Village Hall
5819 Electric Avenue
Berkeley, IL 60163**

The Annual Joint Review Board meeting was called to order at 9:33 a.m. by Village Trustee Diane Salemi. Those in attendance were:

Diane Salemi	Village of Berkeley Trustee, for the Village of Berkeley
Rudy Espiritu	Village of Berkeley, Village Administrator
Justyn Miller	Village of Berkeley, Assistant Village Administrator
Mark Flores	Memorial Park District
Ryan Cox	Berkeley Library
Laura Vince	School District #87

Rudy Espiritu made a motion to appoint Diane Salemi as Chairperson of the Joint Review Board, seconded by Mark Flores. Voice Vote; ayes, motion carried.

Ryan Cox made a motion to approve the minutes of the December 13, 2021 meeting. Laura Vince seconded the motion. All approved; motion carried.

Justyn Miller highlighted the several points within both FY 2022 Annual TIF Reports for period ending on April 30, 2022. Specifically, Justyn highlighted that no activity occurred in the St. Charles Road TIF District (TIF #1) and that this district is set to expire/close in 2023. The remaining fund balance of approximately \$1,000 in the TIF fund will be spent on a beautification project in the district. Justyn highlighted the St Charles/McDermott Road TIF District (TIF #2), and explained that the only expense from TIF #2 was related to the ongoing Mittera redevelopment agreement for FY2022. He also highlighted that expenses related to the hiring of a retail consultant and update to the St. Charles Road Corridor Plan would be coming from TIF #2 for the current fiscal year. He also highlighted some recent expenses to the TIF District including the demolition of 5440 St. Charles Road and the closure of the McDermott Drive Reconstruction project. Rudy spoke about using a small Village owned parcel, within TIF #2, at the corner of St. Charles Road and Hillside Avenue, for food trucks. Currently, there is already one food truck that utilizes the site. More specifically, potentially spending some money from the TIF #2 fund to make improvements to the property for additional food trucks but this will be decided at an upcoming Village Board meeting.

Mark Flores made a motion to adjourn the meeting at 9:46 a.m. Ryan Cox seconded the motion.

Submitted by,
Justyn Miller
Justyn Miller



Attachment K

**VILLAGE OF BERKELEY, ILLINOIS
TAX INCREMENT FINANCING DISTRICT
NO. 2 FUND (MCDERMOTT/ST. CHARLES ROAD)**

REPORT ON COMPLIANCE
WITH PUBLIC ACT 85-1142

For the Year Ended April 30, 2023



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VILLAGE OF BERKELEY, ILLINOIS
TAX INCREMENT FINANCING DISTRICT NO. 2 FUND
(MCDERMOTT/ST. CHARLES ROAD)
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1415 West Diehl Road, Suite 400
Naperville, IL 60563
630.566.8400

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INDEPENDENT AUDITOR'S REPORT ON SUPPLEMENTARY INFORMATION

The Honorable President
Members of the Board of Trustees
Village of Berkeley, Illinois

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the Village of Berkeley, Illinois (the Village) as of and for the year ended April 30, 2023 and the notes to the financial statements which collectively comprise the basic financial statements of the Village of Berkeley, Illinois, and have issued our report thereon dated November 30, 2023, which expressed an unmodified opinion on those statements.

Our audit was conducted for the purpose of forming an opinion on the basic financial statements as a whole. The supplementary information (balance sheet and schedule of revenues, expenditures, and changes in fund balance) is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements.

The information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated in all material respects in relation to the basic financial statements as a whole.

Sikich LLP

Naperville, Illinois
November 30, 2023

SUPPLEMENTARY INFORMATION

VILLAGE OF BERKELEY, ILLINOIS
TAX INCREMENT FINANCING DISTRICT
NO. 2 FUND (MCDERMOTT/ST. CHARLES ROAD)

BALANCE SHEET

April 30, 2023

ASSETS	
Cash and Cash Equivalents	<u>\$ 1,906,064</u>
TOTAL ASSETS	<u><u>\$ 1,906,064</u></u>
LIABILITIES AND FUND BALANCE	
LIABILITIES	
Accounts Payable	<u>\$ 27,484</u>
Total Liabilities	<u>27,484</u>
FUND BALANCE	
Restricted for Economic Development	<u>1,878,580</u>
Total Fund Balance	<u>1,878,580</u>
TOTAL LIABILITIES AND FUND BALANCE	<u><u>\$ 1,906,064</u></u>

(See independent auditor's report.)

VILLAGE OF BERKELEY, ILLINOIS
TAX INCREMENT FINANCING DISTRICT
NO. 2 FUND (MCDERMOTT/ST. CHARLES ROAD)

SCHEDULE OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCE

For the Year Ended April 30, 2023

REVENUES	
Investment Income	\$ 4,200
Property Taxes	<u>643,566</u>
Total Revenues	<u>647,766</u>
EXPENDITURES	
Administrative	<u>614,685</u>
Total Expenditures	<u>614,685</u>
NET CHANGE IN FUND BALANCE	33,081
FUND BALANCE, MAY 1	<u>1,845,499</u>
FUND BALANCE, APRIL 30	<u><u>\$ 1,878,580</u></u>

(See independent auditor's report.)

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Attachment L

INDEPENDENT ACCOUNTANT'S REPORT

The Honorable President
Members of the Board of Trustees
Village of Berkeley, Illinois

We have examined management's assertion, included in its representation letter dated November 30, 2023, that the Village of Berkeley, Illinois (the Village) complied with the provisions of subsection (q) of Section 11-74.4-3 of the Illinois Tax Increment Redevelopment Allocation Act (Illinois Public Act 85-1142) during the year ended April 30, 2023. Management is responsible for the Village's assertion and for compliance with those requirements. Our responsibility is to express an opinion on management's assertion about the Village compliance based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether management's assertion about compliance with the specified requirements is fairly stated, in all material respects. An examination involves performing procedures to obtain evidence about whether management's assertion is fairly stated, in all material respects. The nature, timing, and extent of the procedures selected depend on our judgment, including an assessment of the risks of material misstatement of management's assertion, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

We are required to be independent and meet our other ethical responsibilities in accordance with relevant ethical requirements relating to the engagement.

Our examination does not provide a legal determination on the Village of Berkeley's compliance with the specified requirements.

In our opinion, management's assertion that the Village of Berkeley, Illinois complied with the aforementioned requirements for the year ended April 30, 2023, is fairly stated, in all material respects.

This report is intended solely for the information and use of the President, the Village Board, management of the Village, Illinois State Comptroller's Office and the joint review boards and is not intended to be and should not be used by anyone other than these specified parties.

Sikich LLP

Naperville, Illinois
November 30, 2023